



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 21 फरवरी, 2022 / 02 फाल्गुन, 1943

हिमाचल प्रदेश सरकार

परिवहन विभाग

अधिसूचना

शिमला-171002, 18 फरवरी, 2022

संख्या: टी.पी.टी-एफ(2)-4 / 2019-III-लूज.—भानुपल्ली-बिलासपुर बेरी, नई ब्रॉड गेज रेल लाइन परियोजना के निर्माण के लिए "भूमि अधिग्रहण, पुनर्वास और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013" के अधीन निजी भूमि को अधिगृहीत किया जाना अपेक्षित है;

उपर्युक्त परियोजना के लिए सामाजिक समाघात निर्धारण अध्ययन और विशेषज्ञ समूह मूल्यांकन संचालित किया गया है;

कुछ परिवारों का भूमि के ऐसे अधिग्रहण के कारण अनैच्छिक विस्थापन हो सकता है और पूर्वोक्त अधिनियम की धारा 43(1) के उपबंधों के अधीन ऐसे परिवारों का पुनर्वास और पुनर्व्यवस्थापन किया जाना अपेक्षित है, जिसके लिए परियोजना हेतु पुनर्वास और पुनर्व्यवस्थापन के लिए कोई प्रशासक नियुक्त किया जाना अपेक्षित है;

और इस प्रकार नियुक्त प्रशासक कोई सर्वेक्षण संचालित करेगा और प्रभावित परिवारों की जनगणना ऐसी रीति में और ऐसे समय के भीतर करेगा, जैसे पूर्वोक्त अधिनियम की धारा 16 के अधीन विहित की जाए;

और उक्त धारा की उपधारा (2) और (3) में यथाविनिर्दिष्ट कृत्यों का पालन करने हेतु सरकार द्वारा पूर्वोक्त अधिनियम की धारा 44 के अधीन पुनर्वास और पुनर्व्यवस्थापन के लिए आयुक्त नियुक्त किया जाना अपेक्षित है;

अतः हिमाचल प्रदेश के राज्यपाल, पूर्वोक्त अधिनियम की धारा 43(1) और 44 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए उपरोक्त परियोजना के लिए क्रमशः अतिरिक्त उपायुक्त, बिलासपुर, हिमाचल प्रदेश को प्रशासक तथा मण्डलायुक्त, मण्डी, हिमाचल प्रदेश को आयुक्त, पुनर्वास और पुनर्व्यवस्थापन नियुक्त करते हैं।

आदेश द्वारा,

आर. डी. नज़ीम,
प्रधान सचिव (परिवहन)।

[Authoritative English text of this Department Notification No. TPT-F(2)-4/2019-III-loose, dated 18-2-2022 as required under Article 348(3) of the Constitution of India].

TRANSPORT DEPARTMENT

NOTIFICATION

Shimla-171002, the 18th February, 2022

No.TPT-F(2)-4/2019-III-loose.—Whereas, for the construction of Bhanupali-Bilaspur Beri New Broad Gauge Railway Line Project, private land in District Bilaspur is required to be acquired under “The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013” ;

And whereas, the Social Impact Assessment study and Expert Group appraisal has been conducted for the above Project;

And whereas, some families may be displaced involuntary due to such acquisition of land and under the provisions of section 43(1) of the Act *ibid*, the Resettlement and Rehabilitation of such families is required to be done for which an Administrator for Rehabilitation and Resettlement is required to be appointed for the project;

And whereas, the Administrator so appointed shall conduct a survey and undertake a census of the affected families, in such manner and within such time, as may be prescribed under section 16 of the Act *ibid*;

And whereas, under section 44 of the Act *ibid*, the Commissioner for Rehabilitation and Resettlement is required to be appointed by the Government for discharging the functions as specified in sub-sections (2) and (3) of the said section;

Now therefore, in exercise of the powers conferred under sections 43(1) and 44 of the Act *ibid*, the Governor of Himachal Pradesh is pleased to appoint Additional Deputy Commissioner, Bilaspur, Himachal Pradesh as Administrator and Divisional Commissioner, Mandi, Himachal Pradesh as Commissioner for Rehabilitation and Resettlement respectively for the above project.

By order,

R. D. Nazeem,
Pr. Secretary (Transport).

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 8th February, 2022

No. Shram(A) 6-2/2020 (Awards) Dharamshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court, Dharamshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No	Ref. No.	Petitioner	Respondent	Date of Award / Order
1.	37/19	Zangchuk Dolma	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
2.	39/19	Dolma Zangmo	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
3.	40/19	Padma Dikit	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
4.	38/19	Tanzin Dechen	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
5.	41/19	Dolekerma	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
6.	42/19	Lobzang Namgial	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
7.	35/19	Tenzin Dolma	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
8.	73/19	Tenzin Chhopal	E.E. HPPWD, B&R Divn. Kaza	30-11-2021
9.	74/19	Gatuk Zangmo	E.E. HPPWD, B&R Divn. Kaza	30-11-2021

By order,

R. D. Dhiman, IAS,
Addl. Chief Secretary (Lab. & Emp.).

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 37/2019

Date of Institution : 22-4-2019

Date of Decision : 30-11-2021

Smt. Zangchuk Dolma w/o Shri Tanzin Lotey, r/o Village & Post Office Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) *...Petitioner.*

Versus

The Executive Engineer, HPPWD, B&R Division Kaza, District Lahaul & Spiti, H.P. *...Respondent.*

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner: Sh. Vijay Kaundal, Ld. Advocate.
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent: Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Smt. Zangchuk Dolma wife of Sh. Tanzin Lotey, r/o Village & P.O. Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B&R Division Kaza, Distt. Lahaul & Spiti (H.P.) during the year, 2015 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* October, 2007. She had worked upto 2015 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* January, 2016 without complying the necessary provisions of Section 25-F of the Act as no notice/chargesheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last

come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2015 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wage on muster roll during October, 2007 and she remained working upto August, 2015 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State

Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during the year, 2015 by the respondent is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ..*OPR*.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Smt. Zangchuk Dolma stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of mandays Ex.PW1/B, copy of letter dated 14.9.2007 Ex.PW1/C containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/D regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/E. In cross-examination PW- 1 admitted engagement for work in October, 2007 with respondent. She denied working on rotational basis till August, 2015 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs.33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Glamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Zangchuk Dolma was engaged in October, 2007. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in December, 2015 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No. 1:	Yes
Issue No. 2:	As per discussion
Issue No. 3:	No
Issue No. 4:	No
Relief :	Petition is partly allowed as per operative part of the Award.

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from October, 2007 till December, 2015. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during year 2015 by the respondent, as to whether it was without complying with the provisions of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2015, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.PW1/B is shown to have been engaged in October, 2007 and worked intermittently from said month till August, 2015. This position is also similarly reflected in mandays Ex.RW1/B tendered in evidence by RW1. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Glamchho, Executive Engineer of the respondent, has admitted that pursuant to letter Ex.PW1/D 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system *vide* resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2015 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 *i.e.* after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Glamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Zangchuk Dolma has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2015 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue no.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues no. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved her cause of action to file the petition and issues no.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2015 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement

shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 39/2019

Date of Institution: 22-4-2019

Date of Decision : 30-11-2021

Ms. Dolma Zangmo w/o Shri Sher Singh, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) *...Petitioner.*

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P. *...Respondent.*

Reference under Section 10(1) of the Industrial Disputes Act, 1947.

For the petitioner: Sh. Vijay Kaundal, Ld. Advocate
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent: Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Ms. Dolma Zangmo w/o Sh. Sher Singh, r/o VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during December, 2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex- worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* June, 2001. She had worked upto December,

2016 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* January, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that *vide* letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2009 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wagger on muster roll during June, 2001 and she remained working upto December, 2016 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourer for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her

services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during December, 2016 by the respondent is/was illegal and unjustified, as alleged? *...OPP.*
 2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? *OPP.*
 3. Whether the claim petition is not maintainable, as alleged? *..OPR.*
 4. Whether the petitioner has no cause of action to file the petition, as alleged? *...OPR.*
- Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Ms. Dolma Zangmo stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of letter dated 14.9.2007 Ex.PW1/B containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/C regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/D. In cross-examination PW-1 admitted engagement for work in June, 2001 with respondent. She denied working on rotational basis till December, 2016 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs. 33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-

examination he admitted that petitioner Dolma Zangmo was engaged in May, 2001. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in December, 2016 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No.1	: Yes
Issue No.2	: As per discussion
Issue No.3	: No
Issue No.4	: No
Relief.	: Petition is partly allowed as per operative part of the Award.

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from June, 2001 till December, 2016. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during December, 2016 by the respondent, as to whether it was without complying with the provision of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in June, 2001 and worked intermittently from said month till December, 2016. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior

workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system vide resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2016 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 i.e. after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Dolma Zangmo has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2016 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue no.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues no. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved her cause of action to file the petition and issues no.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2016 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 40/2019

Date of Institution: 22-4-2019

Date of Decision : 30-11-2021

Ms. Padma Dikit w/o Shri Angrup Giachho, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) ...Petitioner.

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P. ... Respondent.

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate.
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Ms. Padma Dikit w/o Sh. Angrup Giachho, r/o VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during January, 2017 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* November, 2000. She had worked upto January, 2017 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* February, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2009 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wagger on muster roll during September, 2000 and she remained working upto January, 2017 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational

basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during January, 2017 by the respondent is/was illegal and unjustified, as alleged? ...OPP.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...OPP.
3. Whether the claim petition is not maintainable, as alleged? ...OPR.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ...OPR.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Ms. Padma Dikit stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of letter dated 14.9.2007 Ex.PW1/B containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/C regarding engagement of beldars at HPPWD

Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/D. In cross-examination PW-1 admitted engagement for work in September, 2000 with respondent. She denied working on rotational basis till January, 2017 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs. 33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Padma Dikit was engaged in November, 2000. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in January, 2017 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full month. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No. 1	: Yes
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative part of the Award.

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from November, 2000 till January, 2017. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during January, 2017 by the respondent, as to whether it was without complying with the provision of the Act. Thus the question of intermittent breaks is beyond

scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in November, 2000 and worked intermittently from said month till January, 2017. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system *vide* resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2017 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 i.e. after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Padma Dikit has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2017 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues No. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No.4

22. Petitioner has proved her cause of action to file the petition and issues no.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2017 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA, (H.P.)**

Ref. No. : 38/2019

Date of Institution : 22-4-2019

Date of Decision : 30-11-2021

Ms. Tanzin Dechen w/o Shri Anil Kumar, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul
& Spiti (H.P.) ...Petitioner.

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P.

...Respondent.

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner: Sh. Vijay Kaundal, Ld. Advocate.
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent: Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Ms. Tanzin Dechen w/o Sh. Anil Kumar, r/o VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during the year, 2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* September, 2008. She had worked upto December, 2016 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* January, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that *vide* letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagemen, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority,

continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2016 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wager on muster roll during September, 2008 and she remained working upto December, 2016 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during the year, 2016 by the respondent is/was illegal and unjustified, as alleged? *...OPP.*
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? *...OPP.*

3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ...*OPR*.

Relief

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Smt. Tenzin Dechen stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of letter dated 14.9.2007 Ex.PW1/B containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/C regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/D. In cross-examination PW-1 admitted engagement for work in September, 2008 with respondent. She denied working on rotational basis till December, 2016 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs. 33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Tenzin Dechen was engaged in September, 2008. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in December, 2016 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No. 1	: Yes
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative part of the Award.

REASONS FOR FINDINGS**Issue No. 1**

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from September, 2008 till December, 2016. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during year 2016 by the respondent, as to whether it was without complying with the provisions of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in September, 2008 and worked intermittently from said month till December, 2016. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system *vide* resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2016 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 i.e. after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis

without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Tanzin Dechen has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2016 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No.2

20. In view of positive findings on issue no.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues no. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No.4

22. Petitioner has proved her cause of action to file the petition and issues no.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2016 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 41/2019

Date of Institution: 22.4.2019

Date of Decision : 30.11.2021

Ms. Dolekerma w/o Shri Arvind Kumar, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.)
...*Petitioner.*

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P.
...*Respondent.*

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Ms. Dolekerma w/o Sh. Arvind Kumar, r/o VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during October, 2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* June, 2001. She had worked upto September, 2016 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* October, 2016 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last

come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2009 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wagger on muster roll during June, 2001 and she remained working upto October, 2016 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution

was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during October, 2016 by the respondent is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ...*OPR*.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Ms. Dolekarma stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of letter dated 14.9.2007 Ex.PW1/B containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/C regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/D. In cross-examination PW-1 admitted engagement for work in June, 2001 with respondent. She denied working on rotational basis till October, 2016 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs.33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Dolekarma was engaged in June, 2001. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in October, 2016 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No. 1	: Yes
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative part of the Award

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from June, 2001 till October, 2016. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during October, 2016 by the respondent, as to whether it was without complying with the provisions of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in June, 2001 and worked intermittently from said month till October, 2016. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system vide resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2016 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 i.e. after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Dolekarma has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2016 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues No. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved her cause of action to file the petition and issues No.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2016 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement

shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA).
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 42/2019

Date of Institution : 22-4-2019

Date of Decision : 30-11-2021

Shri Lobzang Namgial s/o Shri Chhimed Landup, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) *...Petitioner.*

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P. *... Respondent.*

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Sh. Lobzang Namgial s/o Sh. Chhimed Landup, r/o VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during December, 2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that he was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* March, 2014. He had worked upto February,

2017 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent him completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* March, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhering Yangchen, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording him opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of his services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, he has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2019 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wager on muster roll during March, 2014 and he remained working upto February, 2017 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the

resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of his services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during December, 2016 by the respondent is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ...*OPR*.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Shri Lobzang Namgial stepped into the witness box as PW1 and deposed his claim through sworn affidavit Ex.PW1/A as averred in the claim petition. He also tendered in evidence copy of letter dated 14.9.2007 Ex.PW1/B containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/C regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/D. In cross-examination PW-1 admitted engagement for work in March, 2014 with respondent. He denied working on rotational basis till February, 2017 with respondent. Further denied his disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. He denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs.33 lakhs. He denied having been paid enough compensation for not working on rotational basis. He also denied engagement of junior workers according to the resolution. He also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in

evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Lobzang Namgial was engaged in March, 2014. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that he would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in February, 2017 but voluntarily stated he did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No.1	: Yes.
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative part of the Award

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of his services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave him fictional breaks from March, 2014 till February, 2017. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during December, 2016 by the respondent, as to whether it was without complying with the provision of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of his termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in March, 2014 and worked intermittently from said month till February, 2017. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of his sworn affidavit Ex.PW1/A. He has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of his affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner, as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording him opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system vide resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of his services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Shri Lobzang Namgial has specifically denied that he was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during December, 2016 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of his illegal termination. Petitioner is not held entitled to back wages as he has not pleaded and proved to be not gainfully employed after his disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues No. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved his cause of action to file the petition and issues No.1 and 2 held in his favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during December, 2016 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of his illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 35/2019

Date of Institution : 22-4-2019

Date of Decision : 30-11-2021

Smt. Tenzin Dolma w/o Shri Champ Ganzin, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) *...Petitioner.*

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P. *... Respondent.*

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate.
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Smt. Tenzin Dolma w/o Sh. Champ Ganzin, VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti (H.P.) by the Executive Engineer, HPPWD, B&R Division Kaza, Distt. Lahaul & Spiti (H.P.) during the year, 2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* January, 2010. She had worked upto 2015 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* January, 2016 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of ‘last come first go’ has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2017 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wager on muster roll during October, 2010 and she remained working upto December, 2015 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during the year, 2016 by the respondent is/was illegal and unjustified, as alleged? ...*OPP*.
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether the petitioner has no cause of action to file the petition, as alleged? ...*OPR*.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Smt. Tenzin Dolma stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of mandays Ex.PW1/B, copy of letter dated 14.9.2007 Ex.PW1/C containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/D regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/E. In cross-examination PW-1 admitted engagement for work in October, 2010 with respondent. She denied working on rotational basis till December, 2015 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit

system according to the resolution and persons who did not get work on chit system were paid Rs. 33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Tenzin Dolma was engaged in August, 2010. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in January, 2016 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full months. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No.1	: Yes.
Issue No.2	: As per discussion
Issue No.3	: No
Issue No.4	: No
Relief	: Petition is partly allowed as per operative part of the Award

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from January, 2010 till December, 2015. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during year 2016 by the respondent, as to whether it was without complying with the provision of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2016, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.PW1/B is shown to have been engaged in October, 2010 and worked intermittently from said month till December, 2015. This position is also similarly reflected in mandays Ex.RW1/B tendered in evidence by RW1. Petitioner has specifically

deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that pursuant to letter Ex.PW1/D 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system vide resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Petitioner was disengaged in 2016 whereas this resolution Ex.RW1/D which has been objected to by learned counsel for petitioner is dated 13.2.2017 i.e. after her disengagement as also is of subsequent dated 1st August, 2017 and therefore said resolution cannot justify disengagement of petitioner. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1/D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Tenzin Dolma has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2016 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues No. 1 and 2 claim petition is held maintainable. Even otherwise the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved her cause of action to file the petition and issues No.1 and 2 held in her favour. Thus, issue no.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2016 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 73/2019

Date of Institution : 06-6-2019

Date of Decision : 30-11-2021

Shri Tenzin Chhopal s/o Shri Kunchok Chhering, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.) ...Petitioner.

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P. ... Respondent.

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether termination of services of Sh. Tenzin Chhopal s/o Sh. Kunchok Chhering, r/o Village & P.O. Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti, H.P. by the Executive Engineer, HPPWD, B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during April, 2017 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex- worker is entitled to from the above employer?”

2. Petitioner has averred in the claim petition that he was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* August, 2012. He had worked upto July, 2017 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent him completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* August, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhering Yangchen, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording him opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of his services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority, continuity in service and other consequential service benefits. Further, he has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2018 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wager on muster roll during

August, 2012 and he remained working upto March, 2017 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of his services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 5.8.2019:

1. Whether termination of services of the petitioner during April, 2017 by the respondent is/was illegal and unjustified, as alleged? ...OPP.
6. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? ...OPP.
7. Whether the claim petition is not maintainable, as alleged? ...OPR.
8. Whether the petitioner has no cause of action to file the petition, as alleged? ...OPR.

Relief

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Shri Tenzin Chhopal stepped into the witness box as PW1 and deposed his claim through sworn affidavit Ex.PW1/A as averred in the claim petition. He also tendered in evidence copy of mandays chart Ex.PW1/B, copy of letter dated 14.9.2007 Ex.PW1/C containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/D regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/E. In cross-examination PW-1 admitted engagement for work in August, 2012 with respondent. He denied working on rotational basis till March, 2017 with respondent. Further denied his disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. He denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs.33 lakhs. He denied having been paid enough compensation for not working on rotational basis. He also denied engagement of junior workers according to the resolution. He also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Tenzin Chhopal was engaged in August, 2012. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that he would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in April, 2017 but voluntarily stated he did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full month. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No.1	: Yes.
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief	: Petition is partly allowed as per operative part of the Award

REASONS FOR FINDINGS

Issue No. 1

13. Petitioner's case is to the effect that the termination of his services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that

respondent gave him fictional breaks from August, 2012 till July, 2017. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during April, 2017 by the respondent, as to whether it was without complying with the provision of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of his termination of services in year 2017, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.RW1/B is shown to have been engaged in August, 2012 and worked intermittently from said month till March, 2017. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of his sworn affidavit Ex.PW1/A. He has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of his affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that pursuant to letter Ex. PW1/D 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording him opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation, AIR 2010 SC 1116**.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system vide resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of his services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Shri Tenzin Chhopal has specifically denied that he was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during year 2017 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No. 2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of his illegal termination. Petitioner is not held entitled to back wages as he has not pleaded and proved to be not gainfully employed after his disengagement. This issue is answered accordingly.

Issue No. 3

21. In view of positive findings of issues No. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No. 4

22. Petitioner has proved his cause of action to file the petition and issues No.1 and 2 held in his favour. Thus, issue No.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during April, 2017 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of his illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SH. ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL KANGRA AT DHARAMSHALA (H.P.)**

Ref. No.: 74/2019

Date of Institution: 06-6-2019

Date of Decision : 30-11-2021

Smt. Gatuk Zangmo w/o Shri Yishy Gatuk, r/o VPO Dhankhar, Tehsil Kaza, District Lahaul & Spiti (H.P.)

...Petitioner.

Versus

The Executive Engineer, HPPWD, B & R Division Kaza, District Lahaul & Spiti, H.P.

... Respondent.

Reference under Section 10(1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Vijay Kaundal, Ld. Advocate
Sh. Rajat Chaudhary, Ld. Advocate

For the respondent : Sh. Anil Sharma, Ld. Dy. D.A.

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether termination of services of Smt. Gatuk Zangmo w/o Sh. Yishy Gatuk, VPO Dhankhar, Tehsil Kaza, Distt. Lahaul & Spiti (H.P.) by the Executive Engineer, HPPWD B & R Division Kaza, Distt. Lahaul & Spiti (H.P.) during March, 2017 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. Petitioner has averred in the claim petition that she was initially engaged by the respondent as daily waged beldar on muster roll *w.e.f.* May, 2000. She had worked upto 2017 interruptedly. Respondent has engaged and disengaged the petitioner by giving fictional breaks with the intention to prevent her completing 180 days for the purpose of continuous service under Section 25-B of the Act. The services of petitioner are stated to have been finally terminated by the respondent *w.e.f.* March, 2017 without complying the necessary provisions of Section 25-F of the Act as no notice/charge sheet was issued to petitioner nor any enquiry was conducted as also no retrenchment compensation paid. Thus, termination is alleged null, void abinitio. Petitioner submitted representations to the Executive Engineer, HPPWD Kaza but no action was taken by the department.

3. It is further averred that vide letter dated 14.9.2007 State Government has issued directions to issue full month muster rolls but the direction has not been followed by the respondent. The respondent has adopted pick and chose method for engagement of workmen. Some junior workmen have been engaged continuously without break but senior workmen like petitioner have been engaged with some fictional breaks. Petitioner has further alleged that principle of 'last come first go' has been violated by the department as junior workmen namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui, Chhering Lottey, Anita Devi, Chhering Dolma, Mingur Sonam, Lobzang Palmo, Chhering Norphel, Dolma Yanzom, Shakuntla Devi have been retained continuously ignoring the seniority of petitioner and as such there is violation of Section 25-G of the Act. It is also averred that fresh hands have been appointed after termination of the services of petitioner, without affording her opportunity for re-engagement, which is violation of Section 25-H of the Act. Full month muster rolls have been issued to the workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan etc. Thus, petitioner has claimed the termination of her services as unconstitutional, unjustified, arbitrary, unfair labour practice under Clause 10 of Fifth Schedule of the Act. Petitioner has prayed for declaring the breaks as illegal as also direction to the respondent to pay wages of break periods, setting aside of final termination and reinstatement in service with full back wages, seniority,

continuity in service and other consequential service benefits. Further, she has prayed for directing the respondent to regularize the services of petitioner on completion of continuous service *w.e.f.* 1.1.2008 and pay the arrear of services with interest.

4. Respondent contested the claim petition by filing reply making preliminary submissions that petitioner was engaged by the department as daily wager on muster roll during May, 2000 and she remained working upto February, 2017 on rotational basis subject to availability of work and funds under Sichling Sub Division HPPWD. The respondent disengaged the services of petitioner during extreme winter season every year as the region of Spiti Valley is at high altitude and snow bound area. The developmental activities remain closed during winter and as such services of petitioner were not required during winter season. Fictional and artificial breaks are denied to have been given deliberately by the respondent to deprive petitioner to complete 180 days in each calendar year. It is further averred that casual labourers were deployed on rotational basis from month to month. Meaning of rotational basis is stated for instance a muster roll having strength of 20 beldars in a month is issued and one beldar from each house of village to be engaged during the month. During next month the remaining villagers were engaged in place of previous 20 beldars and this practice is stated to be repeated every month till working season closed.

5. It is also averred that as per resolution dated 13.2.2017 passed by villagers of Dhankhar, the practice of rotational system of engagement was resolved to be dispensed with and sponsoring exact number of labourers for continuous service without rotation. The names of persons sponsored for engagement with respondent were decided on chit system as per resolution passed by the villagers. The left out villagers whose name did not reflect in chit, were provided compensation to be equally contributed by the persons whose names were sponsored for employment on muster roll on continuous basis or without rotation. It is also averred that the resolution has prior consent of the petitioner and petitioner has received huge amount of compensation for disengagement of her services on rotational basis. On merits, similar averments have been made and it is denied that the rights of petitioner have been tampered on whimsical action. It is averred that the services of junior persons pointed out by the petitioner, have been engaged on the recommendations of the villagers with the prior consent of the petitioner and the charge of pick and choose method or retaining services of juniors is stated to be baseless. Thus, respondent prayed for dismissal of claim petition.

6. Rejoinder was filed by the petitioner denying the contents of reply and reasserting those of claim petition. It is averred that this Court has limited jurisdiction and cannot go beyond the terms of reference. It is further averred that there is no policy/notification/instruction issued by the State Government to engage services of workers on rotational basis or subject to availability of works and funds. It is further averred that number of workers are working for twelve months in a year and 365 days presence marked in a calendar year. It is categorically denied that any resolution was passed by the villagers. Petitioner is not involved in any resolution as annexed. State Government department cannot accept the condition of any resolution of village of Spiti Valley and the respondent is bound to follow provisions of the Act. Petitioner has not received any compensation nor involved in the practice of chit system.

7. On the pleadings of parties, following issues were framed on 03.9.2019:

1. Whether termination of services of the petitioner during March, 2017 by the respondent is/was illegal and unjustified, as alleged? ...OPP.
2. If issue no.1 is proved in affirmative to what service benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable, as alleged? ...OPR.

4. Whether the petitioner has no cause of action to file the petition, as alleged? ...*OPR*.

Relief.

8. Evidence was led by the parties to the lis in support of the issues framed.

9. Petitioner Smt. Gatuk Zangmo stepped into the witness box as PW1 and deposed her claim through sworn affidavit Ex.PW1/A as averred in the claim petition. She also tendered in evidence copy of mandays chart Ex.PW1/B, copy of letter dated 14.9.2007 Ex.PW1/C containing instructions for providing muster roll for complete month to the workers, letter Ex.PW1/D regarding engagement of beldars at HPPWD Division Kaza on full month muster roll in place of break, issued by Addl. Chief Secretary (PWD) to the Government of H.P. to Engineer-in-Chief, Shimla and copy of award dated 30.9.2015 Ex.PW1/E. In cross-examination PW-1 admitted engagement for work in May, 2000 with respondent. She denied working on rotational basis till February, 2017 with respondent. Further denied her disengagement pursuant to resolution dated 13.2.2017 passed by the villagers of Dhankhar village. She denied procurement of services on chit system according to the resolution and persons who did not get work on chit system were paid Rs.33 lakhs. She denied having been paid enough compensation for not working on rotational basis. She also denied engagement of junior workers according to the resolution. She also denied providing of work on rotational basis since 1980 so that all able workers could get equal working days.

10. On the other hand, RW-1 Shri Tashi Giamchho, Executive Engineer Spiti, deposed defence of respondent through his affidavit Ex.RW1/A as contained in the reply. He tendered in evidence mandays chart of petitioner Ex.RW1/B, copy of reply to demand notice Ex.RW1/C, copy of resolution Ex.RW1/D which was objected to by the learned counsel for petitioner. In cross-examination he admitted that petitioner Gatuk Zangmo was engaged in May, 2000. He voluntarily stated petitioner to be not engaged on regular basis but rotational basis. He admitted it was not settled with the petitioner that she would be provided work only on availability of work and funds. He admitted that muster rolls were issued but voluntarily stated the same were issued in respect of village and not particularly in favour of the petitioner. He admitted that some workers work throughout the year and are regularized by the department. He denied that services of petitioner were terminated in March, 2017 but voluntarily stated she did not come for work. He admitted that pursuant to Ex.PW1/D 300 to 350 workers were issued muster rolls for full month. He admitted junior workers to have been retained for work but self stated they have been engaged on the recommendations of the villagers. He admitted that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the Government.

11. Arguments of learned counsel for petitioner and learned Dy. District Attorney for the respondent were heard and records carefully perused.

12. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:

Issue No. 1	: Yes
Issue No. 2	: As per discussion
Issue No. 3	: No
Issue No. 4	: No
Relief.	: Petition is partly allowed as per operative part of the Award

REASONS FOR FINDINGS**Issue No. 1**

13. Petitioner's case is to the effect that the termination of her services are in violation of provisions contained in Sections 25-F, 25-G and 25-H of the Act. Petitioner has claimed that respondent gave her fictional breaks from May, 2000 till February, 2017. However, the reference by the appropriate Government to this Court does not raise issue of intermittent breaks but the alleged termination of services during March, 2017 by the respondent, as to whether it was without complying with the provisions of the Act. Thus the question of intermittent breaks is beyond scope of reference and as such not to be entertained. Further, as the petitioner has not completed 180/240 days in the preceding year of her termination of services in year 2017, it cannot be said violation of Section 25-F of the Act.

14. Petitioner as per mandays Ex.PW1/B is shown to have been engaged in May, 2000 and worked intermittently from said month till August, 2016. This position is also similarly reflected in mandays Ex.RW1/B tendered in evidence by RW1. Petitioner has specifically deposed as PW1 that the principle of 'last come first go' was violated by the department as persons junior to petitioner have been retained continuously namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui and others named in para 5 of her sworn affidavit Ex.PW1/A. She has also deposed that muster rolls for full months were issued to workmen namely Thuktan Chhering, Chhering Dolker, Ankit Dolma, Angrup Thuktan and others mentioned in para 6 of her affidavit Ex.PW1/A, as also some of the persons have been engaged after termination of petitioner as such, there is violation of Sections 25-G and 25-H of the Act.

15. RW1 Shri Tashi Giamchho, Executive Engineer of the respondent, has admitted that pursuant to letter Ex. PW1/D 300 to 350 workers were issued muster rolls for full months, though he stated that those workers were having intermittent breaks. However, RW1 further specifically admitted that junior workers had been retained for work but voluntarily stated they had been engaged on the recommendations of the villagers. Thus, retaining junior workers namely Chhering Dolker, Ankit Dolma, Angrup Thuktan, Chhewang Chhodon, Tashi Angdui etc. as mentioned in para 5 as well engagement of fresh persons as daily wagers after disengaging the petitioner without affording her opportunity of re-employment proves violation of Sections 25-G and 25-H of the Act at the hands of the respondent. It is well settled that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of 'last come first go' without any tangible reason, as held by Hon'ble Supreme Court in **Harjinder Singh v. Punjab State Warehousing Corporation**, AIR 2010 SC 1116.

16. The defence taken up by respondent for disengaging the services of petitioner that developmental activities remain closed due to non availability of work and funds cannot be accepted as RW1 admitted some workers working throughout the year and regularized by the department.

17. So far as defence of rotational services or employment through chit system *vide* resolution Ex.RW1/D is concerned, the same is not firstly proved on record and secondly petitioner is not shown/proved to be signatory to the said resolution. Further, in view of specific admission of RW1 Shri Tashi Giamchho that resolution Ex.RW1/D is not binding on the Government and respondent cannot devise its own system of engagement on rotational basis without approval of the

Government, resolution Ex.RW1D is of no legal consequence. Even Hon'ble High Court of Bombay in **Sunil Prahlad Khurana & others vs. M/s Bajaj Auto Ltd. (2021 Law Suit Bom. 85)** has held rotational pattern of employment to be designed with a view to avoid any legitimate claim of permanency of tenure of workmen, which is termed as unfair labour practice.

18. The plea of respondent that petitioner has received huge amount of compensation on disengagement of her services on rotational basis is not proved by the respondent. No receipt of alleged payment of compensation has been brought on record by the respondent and petitioner Smt. Gatuk Zangmo has specifically denied that she was given enough amount as per the resolution for not working on rotational basis.

19. Consequently, the termination of services of petitioner during March, 2017 by the respondent is held illegal and unjustified as the same is in violation of Sections 25-G and H of the Act. Issue no. 1 is accordingly decided in favour of petitioner and against respondent.

Issue No.2

20. In view of positive findings on issue No.1 petitioner is entitled to reinstatement forthwith with consequential benefits of seniority and continuity in service from the date of her illegal termination. Petitioner is not held entitled to back wages as she has not pleaded and proved to be not gainfully employed after her disengagement. This issue is answered accordingly.

Issue No.3

21. In view of positive findings of issues No. 1 and 2, claim petition is held maintainable. Even otherwise, the respondent has not proved as to how claim petition is not maintainable. This issue is answered in negative against the respondent.

Issue No.4

22. Petitioner has proved her cause of action to file the petition and issues No.1 and 2 held in her favour. Thus, issue No.4 is answered in negative against the respondent.

RELIEF

23. In view of findings of this Court on issues framed, the petition is partly allowed. The termination of the services of petitioner by respondent during year 2017 is held illegal and unjustified. Consequently, the respondent is directed to reinstate petitioner forthwith. Reinstatement shall be with consequential benefits of seniority and continuity in service from the date of her illegal termination except back wages. The parties are left to bear their costs. The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of November, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT, DISTT.
CHAMBA (H.P.)**

NOTIFICATIONS

Dated, the 03rd February, 2022

No. FDS-CBA-Supply(Rates)-1224-1274.—In pursuance of Govt of Himachal Pradesh Notification No. FDS-A(3)-7/2016 dated 2-11-2021 and in exercise of the powers conferred upon me, under clause 3(i)(e) of the Himachal Pradesh Hoarding and Profiteering Prevention Order, 1977, I, Duni Chand Rana, IAS, District Magistrate, Chamba, Distt. Chamba with a view to make following items available to general public/consumers at fair and reasonable prices in market, do hereby fix the maximum retail sale prices inclusive of all taxes/other incidental charges that may be charged by the seller in Chamba Distt. with immediate effect.

Sl. No. of the articles as per schedule-I of the said order	Name of Articles	Maximum Retail Sale Price (Inclusive of all taxes/ Charges)
12	Meat/Chicken/Fish	
	Meat Goat/Bheda	₹ 470 per K.G
	Chicken Dressed/ Broiler	₹ 220 per K.G
	Fish Un-Fried	₹ 300 per K.G
	Fish Fried	₹ 400 per K.G
	Chicken Alive	₹ 120 per K.G
17	Cooked Food Served in any Dhaba/ Establishment	
	Chapati Tandoori	₹ 7.00 per Chapati
	Chapati Tawa	₹ 5.00 per Chapati
	Prantha Stuffed (with pickle)	₹ 30.00 per Prantha
	Rice Full Plate	₹ 30.00 per plate
	Dal Fried	₹ 60.00 per plate
	Tea	₹ 10.00 per Cup
	Full Diet (Rice Chapati with Dal & Sabji)	₹ 70.00 per plate
	Meat per plate (with 6 pieces weighing 150 Gram)	₹ 170.00 per plate
	Chicken Curry (having at least 6 pieces weighing 150 grams)	₹ 130.00 per plate
	Vegetable special	₹ 70.00 per plate
	Matter/Palak Paneer (having at least 6-7 pieces weighing 75 grams)	₹ 100.00 per plate
	Two puri with Sabji	₹ 40.00 per plate
18	Milk/Curd/Paneer	
	Milk Local	₹ 40.00 per litre

	Milk all Brands (in packets)	As per printed prices
	Paneer	₹ 280.00 per K.G
	Curd	₹ 60.00 per K.G
20	Cold Drinks	
	Cold drinks of all brands	As per printed prices
	Local Soda	₹ 20.00 per bottle (250 ML)
21	Bread	As per printed prices

This notification shall be valid for a period of one month from the date of its publication in the official gazette.

Sd/-
(DUNI CHAND RANA) IAS,
District Magistrate
Chamba, Distt. Chamba (H.P.).

खाद्य नागरिक आपूर्ति एवं उपभोक्ता मामले विभाग चम्बा, जिला चम्बा, हि0 प्र0

अधिसूचना

दिनांक 01 फरवरी, 2022

क्रमांक: एफ0डी0एस0/एल0पी0जी0/रेट-920-75.—हि0प्र0 जमाखोरी एवं मुनाफाखोरी उन्मूलन आदेश, 1977 की धारा 3(1) (ई) व द्रवित पेट्रोलियम गैस (प्रदाय और वितरण विनियम) आदेश, 2000 की धारा 9(ई0) में प्रदत्त शक्तियों का प्रयोग करते हुए मैं, दुनी चन्द राणा, भा0प्र0से0, जिला दण्डाधिकारी जिला चम्बा में कार्यरत समस्त गैस एजेंसियों, द्वारा उपभोक्ताओं को आपूर्ति किए जाने वाले 14.200 किलोग्राम सिलेण्डरों को अधिकतम ब्रिकी मूल्य समस्त करें सहित निम्नलिखित निर्धारित करने के सहर्ष आदेश देता हूँ:—

मै0 पराशर गैस सर्विस इण्डेन वितरक करीयां

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	चम्बा शहर, मुगला, करियां, हरदासपुरा	14.2 kg.	559.50	952	Door delivery
	ढुलान दर		35	40	
	कुल दर		594.50	992.00	
2.	राजपुरा, कियाणी, राजनगर, पुखरी, सरु, भनोता, चनेड, रजेरा, कुरांह, मैहला, जांघी, राख, मरेडी, बरौर, साहो, परेल, सरोल, उदयपुर, मंगला, साच, हरिपुर, पनैला, ककियां, लडु, मसरुण्ड, कन्दला, चण्डी, लडोग, चकलू, पलेही, कान्दुनाला, कोटी	14.2 Kg.	559.50	952	Focal Point

	ढुलान दर		35	40	
	कुल दर		594.50	992.00	
3.	धरवाला, गैहरा, कुमनाला, द्रडा, परिहार, भरियां, सिढकुण्ड, कैन्थली, लिल्ल, सुनारा, कुण्डी, घरमानी, राडी, गुराड, जुम्महार, टिकरी, चलुंज, कोलका, कलौता, लुणा, छतराडी, कुंर, अगाहर, पंजोह, बन्दला, बडोह, सप्डाह, बाडिदेहरा, लैरा, बाट, सराहन, मऊआ, घट्टा, रुपनी	14.2 kg.	559.50	952	Focal Point
	ढुलान दर		40	45	
	कुल दर		599.50	997.00	

जसरोटिया गैस सर्विस मैहला, चम्बा

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	धरवाला, लिल्ल, रजेरा, कुरांह, जाघी, मैहला, राख, बन्दला, गुराड, बकाणी, कलसूई, गैहरा, दुनाली, बटोट, तुर, सुनारा, कुण्डी, राडी, ब्रेही	14.2 kg.	Nil	951.50	Focal Point
	ढुलान दर		—	40	
	कुल दर		—	991.50	

जय श्री कृष्णा गिरी जी भारत गैस एजेन्सी मुगला, चम्बा

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	रजेरा, मैहला, जांघी, राख, सामरा, गुराड, ब्रेही, पिहुरा, कुण्डी, सुनारा, भगेई गढ, चरडा, चाजु, नकरोड, टिकरीगढ, भराडा, जसौरगढ, दियोला, मंगला, भरियां, कोलका, जटकरी, घाघणी, ओहली, साहो, परौथा, रजिन्दु, बनगेटी, कुरैणा, पलीउर, कीरी, लग्गा, सराहन, भाला, सुंगल, कलौता, पलुई, कैला, बरौर, कोहा, जडेरा, सिल्लाघाट, ओबडी, गेट, तलाई, मियाडीगला,	14.2 kg.	657.00	952	Focal Point

	खजियार, औडा, बख्तपुर, रठियार, बसोधन, देवीदेहरा, शक्तिदेहरा, राजनगर, भण्डार, चकलू, चण्डी, लडोग, पुखरी, हमल, मसरुड, चलुज, सन्धी, साच, नगोडी, रिण्डा, सिंगी, कोहलडी, कुन्ना, ओहराफाटी, खडामुख, गरोला, कुरं, छतराडी, कैन्थली, लढाण, सनवाल, भजरौथा, चनेड, भनौता, द्रहडा, परिहार, बाडीदेहरा, पनेला, लैरा, बाट, उटीप, सैरी, जनजला, घरमाणी, झुमहार, लुड्डु				
	ढुलान दर		35	40	
	कुल दर		692.00	992.00	

मै0 अर्जुन इण्डेन ग्रामीण वितरक, सलूणी

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	सलूणी, नरोही, खरोठी, चकोली, किहार, टिकरु मन्जीर, डियूर भण्डार	14.2 kg.	657	954	Focal Point
	ढुलान दर		35	40	
	कुल दर		692.00	994.00	
2.	भांदल, सुरगाणी, भडोह, सुण्डला, लिग्गा, लचोडी, भसुआ,	14.2 kg.	657	954	Focal Point
	ढुलान दर		40	45	
	कुल दर		697.00	999.00	
3.	पन्ताह, अथेड झोडा, गरजिन्दु, भसुआ, तेलका, लडेर, सेरी अन्द्राल, हिमगिरी कोठी, ब्रगांल, भलेई, सपाहन डाण्डी, सुखधार,	14.2 kg.	657	954	
	ढुलान दर		45	50	
	कुल दर		702.00	1004.00	
4.	वांघल, अथेड, बग्गी, खैरी, भुनाड, समाह, मंगलेरा, भलोगी, नडल, गोण्ड, घटगला, भजौत्रा,	14.2 kg.	657	954	Focal Point
	ढुलान दर		50	55	
	कुल दर		707.00	1009.00	

बाबा इण्डेन वितरक चुवाड़ी

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	चुवाड़ी शहर, गाहर, मोहरु मोड, लाहरु, नरोला, बनेट, तुरकडा, केलन, सलोह, साडल बनूनी, कुडडी, होबार, आवह, रायपुर, जाम्बल, कैथली, गगाहर, बैरिया, तारागढ़, बकलोह, ककीरा, पातका, खडेडा, काहरी, चौरी, भराडी, गडाना, फोगला, सिखणु, घटासनी, ददिरयाडा	14.2 kg.	658.50	954.50	Focal Point
	ढुलान दर		30	35	
	कुल दर		688.50	989.50	
2.	सिम्बल गट्टा, टिकरी, खरगट, गरनोटा, सिहुन्ता, ढुलारा, धरुबनेट, जोत, मोतला, ककरोटी, थुलले, हटली, बलाना, समोट, मनहुता, कुट, टुण्डी, खनौडा, गोदरा, फगोट	14.2 kg	658.50	954.50	Focal Point
	ढुलान दर		40	45	
	कुल दर		698.50	999.50	
3.	काथला, बसोलधा, मोर्धु, गोला, मथोलु, तलाई, सुरपुरा, तला	14.2 kg	658.50	954.50	Focal Point
	ढुलान दर		45	50	
	कुल दर		703.50	1004.50	

मै0 डल्हौजी गैस सर्विस, डल्हौजी

क्र. सं.	क्षेत्र/विस्तार बिन्दु का नाम	सिलेण्डर वजन	पूर्व में अनुदानित दर	प्रति सिलेण्डर ब्रिकी दर/ अनुदानित दर	टिप्पणी
1.	डल्हौजी शहर	14.2 kg	560.50	987.00	Door Delivery
	ढुलान दर		35.00	40	
	कुल दर		595.50	1027.00	
2.	बनीखेत, बगडाहर, नैनीखण्ड, गोली, शेरपुर, सिमणी, कुरैला, बाथरी, द्रहडा, परिहार, बकलोह, ककीरा, लाहडु बैतन	14.2 kg	560.50	987.00	Focal Point

	ढुलान दर		28	33	
	कुल दर		588.50	1020.00	
3.	खैरी, भुनाड, नगाली, रुलियाणी, खजियार, खाडी, ओसल, धब्रेरा, पधरोटू, डल, कुण्ड, मेल, गढ, सुण्डला, तलाई, खोलपुखर, लक्कड़मण्डी, पन्जोह	14.2 kg	560.50	987.00	Focal Point
	ढुलान दर		33.00	38	
	कुल दर		593.50	1025.00	
4.	ओहरा, द्रबला, सालवां, तेलका, लिग्गा, सुरगाणी, मन्जीर	14.2 kg	560.50	987.00	Focal Point
	ढुलान दर		40.00	45	
	कुल दर		600.50	1032.00	
6.	किहार, डियूर	14.2 kg	560.50	987.00	Focal Point
	ढुलान दर		50	55	
	कुल दर		610.50	1042.00	
7.	संघणी	14.2 kg	560.50	987	Focal Point
	ढुलान दर		60.00	65	
	कुल दर		620.50	1052.00	

अन्य शर्तें:-

- (1) गैस विक्रेता प्रत्येक उपभोक्ता को कैश मेमो जारी करेगा जिस पर उपभोक्ता का नाम व पता आदि अंकित होगा तथा जिस की डुप्लीकेट प्रति निरीक्षण हेतु अपने पास रखेगा।
- (2) गैस विक्रेता की उनके व्यापारिक संस्थान पर गैस सिलेण्डर का दैनिक स्टॉक सूची व बिक्री मूल्य सूची स्पष्ट तौर पर दर्शानी होगी।
- (3) गैस विक्रेता नया कनेक्शन देते समय उपभोक्ताओं को गैस चूल्हा खरीदने के लिए बाध्य नहीं करेगा। नया कनेक्शन देते समय विक्रेता को निम्न प्रपत्र पर रजिस्टर बनाना होगा:-

क्रमांक	उपभोक्ता का नाम	प्रतिभूति जमा करवाने की तिथि तथा उपभोक्ता का नाम जो दिया है	नया कनेक्शन
1	2	3	4

- (4) गैस विक्रेता सिलेण्डरों की प्राप्ति व वितरण जानकारी ठीक ढंग से बनायेगा जोकि अधिकृत निरीक्षण के समय मांगे जाने पर प्रस्तुत करेगा।

- (5) गैस विक्रेता रोजाना बुकिंग क्रम संख्या तथा कितने सिलेण्डर उपलब्ध हैं, व्यापारिक संस्थान पर प्रदर्शित करेगा।
- (6) गैस सिलेण्डर विक्रेता 14.200 किलोग्राम सिलेण्डर किसी भी व्यापारिक संस्थान को ब्रिकी नहीं करेगा।
- (7) गैस विक्रेता उपभोक्ताओं को दूरभाष पर या फिर काउंटर पर जैसी भी स्थिति हो गैस बुकिंग का क्रमांक सूचित करेगा।
- (8) गैस विक्रेता निम्न प्रपत्र पर जिला नियन्त्रक खाद्य, नागरिक आपूर्ति एवं उपभोक्ता मामले चम्बा को पाक्षिक व मासिक रिपोर्ट भेजेगा।

आदि शेष	गैस सिलेण्डरों की प्राप्ति	कुल जोड़	पक्ष मास में रिपोर्ट	बकाया

उपभोक्ता का गैस आपूर्ति का रजिस्टर निम्न प्रपत्र पर बनाना होगा।

कनैक्शन नं०	कैश मेमो का नं०	आपूर्ति की तिथि	मजदूर का नाम व विवरण

हस्ताक्षरित/—
(दुनी चन्द राणा),
जिला दण्डाधिकारी, भा०प्र०से०,
चम्बा, जिला चम्बा (हि०प्र०)।

DEPUTY COMMISSIONER, KINNAUR DISTRICT AT RECKONG PEO

OFFICE ORDER

R/Peo-172 107, the 19th February, 2022

No. KNR-IX-27(MLC)/21-1082336.—As per the proposal received from the Member Secretary (SDM), Special Area Development Authority Reckong-Peo for notifying the **Parking Zones for the vehicles of the Kinnaur Kailash Pick-Up-Operators Union Kinnaur at Reckong Peo. I, Abid Hussain Sadiq, IAS, Deputy Commissioner, Kinnaur District** in the exercise of the powers conferred by **Section-117 of the Indian Motor Vehicle Act, 1988** and all other powers enabling in this behalf do hereby declare and notify the following points/sites as **Parking Zones for the vehicles of the Kinnaur Kailash Pick-Up-Operators Union Kinnaur at Reckong Peo in the larger public interest:—**

Sl. No.	Place of Parking Zones	Capacity of Vehicles	Rate Per Annum	Remarks
1.	At Right Side of Road near State Co-operative Bank Reckong Peo.	18 Nos.	20,000/- Rupees	That the rent shall be enhanced by 10% for the existing rent after one Year.

The above orders shall come into force with immediate effect and shall remain in force till further orders.

Sd/-
(ABID HUSSAIN SADIQ, IAS),
Deputy Commissioner,
Kinnaur District at Reckong Peo.